

111TH CONGRESS
1ST SESSION

H. R. 3107

To prohibit the expenditure of United States taxpayer dollars on nuclear assistance to state sponsors of terrorism, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2009

Ms. ROS-LEHTINEN (for herself, Mr. BURTON of Indiana, Mr. McCAUL, and Mr. POE of Texas) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To prohibit the expenditure of United States taxpayer dollars on nuclear assistance to state sponsors of terrorism, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stop Nuclear Assist-
5 ance to State Sponsors of Terrorism Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The International Atomic Energy Agency
9 (IAEA) was established in 1957 with the objectives

1 of seeking to “accelerate and enlarge the contribu-
2 tion of atomic energy to peace, health and prosperity
3 throughout the world” and to “ensure . . . that as-
4 sistance provided by it or at its request or under its
5 supervision or control is not used in such a way as
6 to further any military purpose.”.

7 (2) The United States, via assessed contribu-
8 tions, is the largest financial contributor to the reg-
9 ular budget of the IAEA.

10 (3) In 1959, the IAEA established what is now
11 called the Technical Cooperation Program, financed
12 primarily through voluntary contributions by mem-
13 ber states to the Technical Cooperation Fund, to
14 provide nuclear technical cooperation (TC) for
15 peaceful purposes to countries worldwide.

16 (4) The United States is the largest financial
17 contributor to the IAEA’s Technical Cooperation
18 Fund.

19 (5) A March 2009 report by the Government
20 Accountability Office (GAO) found that “neither
21 [the Department of State] nor IAEA seeks to sys-
22 tematically limit TC assistance to countries the
23 United States has designated as state sponsors of
24 terrorism—Cuba, Iran, Sudan, and Syria—even

1 though under U.S. law these countries are subject to
2 sanctions.”.

3 (6) The GAO report also found that “Together,
4 [Cuba, Iran, Sudan, and Syria] received more than
5 \$55 million in TC assistance from 1997 through
6 2007.”. These four countries received over
7 \$4,400,000 in TC assistance in 2008.

8 (7) The GAO report also found that “prolifera-
9 tion concerns about the [Technical Cooperation Pro-
10 gram] have persisted because of the assistance it has
11 provided to certain countries and because nuclear
12 equipment, technology, and expertise can be dual-
13 use—capable of serving peaceful purposes . . . but
14 also useful in contributing to nuclear weapons devel-
15 opment.”.

16 (8) The GAO report also found that “[The
17 State Department] reported in 2007 that three TC
18 projects in [Iran] were directly related to the Iranian
19 nuclear power plant at Bushehr.”.

20 (9) The GAO report also found that “The pro-
21 liferation concerns associated with the [Technical
22 Cooperation Program] are difficult for the United
23 States to fully identify, assess, and resolve . . . [be-
24 cause] there is no formal mechanism for obtaining
25 TC project information during the proposal develop-

1 ment phase . . . [l]imited [Department of] State
2 documentation on how proliferation concerns of TC
3 proposals were resolved . . . [and s]hortcomings in
4 U.S. policies and IAEA procedures [including moni-
5 toring proliferation risks] related to TC program fel-
6 lowships.”.

7 (10) The GAO report noted that “IAEA offi-
8 cials told us that the [Technical Cooperation Pro-
9 gram] does not attempt to exclude countries on the
10 basis of their status as U.S.-designated state spon-
11 sors of terrorism or other political considerations”
12 and that, according to the Deputy Director General
13 for the Technical Cooperation Program, “there are
14 no good countries and there are no bad countries”
15 with respect to provision of technical cooperation by
16 the IAEA.

17 (11) The GAO report also found that “given
18 the limited information available on TC projects and
19 the dual-use nature of some nuclear technologies and
20 expertise, we do not believe [the State Department]
21 can assert with complete confidence that TC assist-
22 ance has not advanced [weapons of mass destruc-
23 tion] programs in U.S.-designated state sponsors of
24 terrorism”.

1 (12) The GAO report also found that “we do
2 not share [the State Department’s confidence in
3 IAEA’s internal safeguards to prevent TC projects
4 from contributing to weapons development . . .]”.

5 (13) The Foreign Assistance Act of 1961 (22
6 U.S.C. 2151 et seq.) prohibited any of the funds au-
7 thorized to be appropriated for “International Orga-
8 nizations and Programs” from being made available
9 for the United States proportionate share for pro-
10 grams for Libya, Iran, Cuba, or the Palestine Lib-
11 eration Organization, inter alia.

12 (14) The Foreign Operations, Export Financ-
13 ing, and Related Programs Appropriations Act,
14 1998 (Public Law 105–118) prohibited any of the
15 funds made available by such Act for the IAEA from
16 being made available for programs and projects of
17 the IAEA in Cuba.

18 (15) The Foreign Affairs Reform and Restruc-
19 turing Act of 1998 (Public Law 105–277) required
20 the United States to withhold a proportionate share
21 of funding to the IAEA for projects in Cuba regard-
22 ing the Juragua Nuclear Power Plant and the Pedro
23 Pi Nuclear Research Center.

24 (16) The GAO report asked Congress “to con-
25 sider directing [the State Department] to withhold a

1 share of future annual contributions to the [Tech-
2 nical Cooperation Fund] that is proportionate to the
3 amount of funding provided from the fund for U.S.-
4 designated state sponsors of terrorism and other
5 countries of concern, noting that such a withholding
6 is a matter of fundamental principle and intended to
7 foster a more consistent U.S. policy toward such na-
8 tions.”.

9 (17) The IAEA has repeatedly reported that
10 the Government of Iran continues its work on heavy
11 water-related projects and its enrichment of ura-
12 nium, in violation of United Nations Security Coun-
13 cil Resolutions 1696 (2006), 1737 (2006), 1747
14 (2007), 1803 (2008), and 1835 (2008).

15 (18) United Nations Security Council Resolu-
16 tion 1737 (2006) decided “that technical cooperation
17 provided to Iran by the IAEA or under its auspices
18 shall only be for food, agricultural, medical, safety or
19 other humanitarian purposes [inter alia] . . . but
20 that no such technical cooperation shall be provided
21 that relates to . . . proliferation sensitive nuclear
22 activities . . .”.

23 (19) According to multiple news reports, the
24 IAEA Director General reported to the IAEA Board
25 of Governors in June of 2009 that the Government

1 of Iran now has approximately 7,000 centrifuges for
2 enriching uranium, is running almost 5,000 of them,
3 and has increased its stockpile of low-enriched ura-
4 nium to over 1,300 kilograms, considered sufficient
5 for further enrichment into enough high-enriched
6 uranium for an atomic bomb.

7 (20) The IAEA Director General has repeatedly
8 reported to the IAEA Board of Governors, including
9 in his report of February 19, 2009, that “there re-
10 main a number of outstanding issues which give rise
11 to concerns . . . [regarding] the existence of pos-
12 sible military dimensions to Iran’s nuclear pro-
13 gramme”.

14 (21) The IAEA Director General has repeatedly
15 reported to the IAEA Board of Governors, including
16 in his report of February 19, 2009, that “Iran has
17 not implemented the Additional Protocol, which is a
18 prerequisite for [the IAEA] to provide credible as-
19 surance about the absence of undeclared nuclear ma-
20 terial and activities. Nor has [Iran] agreed to [the
21 IAEA’s] request that Iran provide, as a trans-
22 parency measure, access to additional locations re-
23 lated, inter alia, to the manufacturing of centrifuges,
24 research and development on uranium enrichment,

1 and uranium mining and milling, as also required by
2 the Security Council.”.

3 (22) The IAEA Director General has repeatedly
4 reported to the IAEA Board of Governors, including
5 in his report of February 19, 2009, that “as a result
6 of the continued lack of cooperation by Iran in con-
7 nection with . . . issues which give rise to concerns
8 about possible military dimensions of Iran’s nuclear
9 programme, [the IAEA] has made no substantive
10 progress on these issues.”.

11 (23) Iran has refused to comply with resolu-
12 tions adopted by the IAEA Board of Governors on
13 September 12, 2003, November 26, 2003, March 15,
14 2004, June 18, 2004, November 29, 2004, August
15 11, 2005, September 24, 2005, February 4, 2006,
16 and July 31, 2006, regarding “Iran’s many failures
17 and breaches of its obligations to comply with its
18 NPT Safeguards Agreement” and continues to block
19 IAEA inspections of its nuclear facilities, in violation
20 of its NPT Safeguards Agreement.

21 (24) According to multiple news reports, Iran
22 recently denied access to its enrichment site at
23 Natanz to IAEA inspectors, and has also denied a
24 request by the IAEA to place one or more additional

1 surveillance cameras at the enrichment site at
2 Natanz.

3 (25) In April of 2008, United States Govern-
4 ment officials publicly revealed that Syria was build-
5 ing at the Dair Alzour site, with North Korea's as-
6 sistance, a secret nuclear reactor that was based on
7 a North Korean model capable of producing pluto-
8 nium for nuclear weapons and that was weeks away
9 from becoming operational before an Israeli air
10 strike reportedly destroyed the reactor in September
11 2007.

12 (26) On April 28, 2008, General Michael Hay-
13 den, the former Director of the Central Intelligence
14 Agency, stated that the Syrian reactor at Dair
15 Alzour could have produced enough plutonium for 1
16 or 2 bombs within a year of becoming operational.

17 (27) The IAEA Director General reported to
18 the IAEA Board of Governors, on November 19,
19 2008, that the Syrian facility at Dair Alzour bore
20 features that resembled those of an undeclared nu-
21 clear reactor, adding that "Syria has not yet pro-
22 vided the requested documentation in support of its
23 declarations concerning the nature or function of the
24 destroyed building, nor agreed to a visit to the three

1 other locations which the IAEA has requested to
2 visit.”.

3 (28) The IAEA Director General publicly stated
4 to the IAEA Board of Governors, on June 15, 2009,
5 that “the limited information and access provided by
6 Syria to date have not enabled the Agency to deter-
7 mine the nature of the destroyed facility” at Dair
8 Alzour site, that uranium particles have been found
9 in samples taken from a second site, the Miniature
10 Neutron Source Reactor facility in Damascus, and
11 that the particles found at both sites “are of a type
12 not included in Syria’s declared inventory of nuclear
13 material.”.

14 **SEC. 3. PROHIBITION ON THE USE OF FUNDS.**

15 (a) IN GENERAL.—No funds from any United States
16 assessed or voluntary contribution to the IAEA may be
17 used to support any assistance provided by the IAEA
18 through its Technical Cooperation program to any coun-
19 try, including North Korea that—

20 (1) is a state sponsor of terrorism;

21 (2) is in breach of or noncompliance with its
22 obligations regarding—

23 (A) its safeguards agreement with the
24 IAEA;

25 (B) the Additional Protocol;

1 (C) the Nuclear Non-Proliferation Treaty;

2 (D) any relevant United Nations Security

3 Council Resolution; or

4 (E) the Charter of the United Nations; or

5 (3) is under investigation for a breach of or

6 noncompliance with the obligations specified in para-

7 graph (2).

8 (b) WITHHOLDING OF VOLUNTARY CONTRIBU-

9 TIONS.—Not later than 30 days after the date of the en-

10 actment of this Act, the Secretary of State shall withhold

11 from the United States voluntary contribution to the

12 IAEA an amount proportional to that spent by the IAEA

13 in the period from 2007 to 2008 on assistance through

14 its Technical Cooperation Program to countries described

15 in subsection (a).

16 (c) WITHHOLDING OF ASSESSED CONTRIBUTIONS.—

17 If, not later than 30 days of the date of the enactment

18 of this Act, the amount specified in subsection (b) has not

19 been withheld and the IAEA has not suspended all assist-

20 ance provided through its Technical Cooperation Program

21 to the countries described in subsection (a), an amount

22 equal to that specified in subsection (b) shall be withheld

23 from the United States assessed contribution to the IAEA.

1 **SEC. 4. WAIVER.**

2 The provisions in subsections (b) and (c) of section
3 3 may be waived if—

4 (1) the IAEA has suspended all assistance pro-
5 vided through its Technical Cooperation Program to
6 the countries described in section 3(a); or

7 (2) the President certifies that the countries de-
8 scribed in section 3(a) no longer pose a threat to the
9 national security, interests, and allies of the United
10 States.

11 **SEC. 5. UNITED STATES ACTIONS AT IAEA.**

12 The President shall direct the United States Perma-
13 nent Representative to the IAEA to use the voice, vote,
14 and influence of the United States at the IAEA to block
15 the allocation of funds for any assistance provided by the
16 IAEA through its Technical Cooperation Program to any
17 country described in section 3(a).

18 **SEC. 6. REPORT.**

19 Not later than six months after the date of the enact-
20 ment of this Act, the President shall transmit to the ap-
21 propriate congressional committees a report on the imple-
22 mentation of this Act.

23 **SEC. 7. DEFINITIONS.**

24 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Foreign Affairs and
5 the Committee on Appropriations of the House
6 of Representatives; and

7 (B) the Committee on Foreign Relations
8 and the Committee on Appropriations of the
9 Senate.

10 (2) STATE SPONSOR OF TERRORISM.—The term
11 “state sponsor of terrorism” means a country the
12 government of which has been determined by the
13 Secretary of State, for purposes of section 6(j) of
14 the Export Administration Act of 1979, section
15 620A of the Foreign Assistance Act of 1961, section
16 40 of the Arms Export Control Act, or other provi-
17 sion of law, is a government that has repeatedly pro-
18 vided support for acts of international terrorism.

○